

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

PROMEGA CORPORATION, ET AL.

Plaintiff,

vs.

LIFE TECHNOLOGIES CORPORATION,
INVITROGEN IP HOLDINGS, INC., AND
APPLIED BIOSYSTEMS, LLC,

Defendants.

Civil Action No. 10-CV-281

DEFENDANTS' FINAL DEPOSITION DESIGNATIONS PRESENTED TO JURY

Defendants Life Technologies Corporation, Applied Biosystems, LLC, and Invitrogen IP Holdings, Inc., (collectively, "Life"), by and through counsel, respectfully submit Defendants' Final Deposition Designations Presented to Jury. The testimony of Dr. Madhuri Hegde was presented to the jury on February 10, 2012, and the testimony of Mr. Robert Rossi was presented to the jury on February 13, 2012.

Hegde, Madhuri (Vol. 01) - 12/14/2011

1. PAGE 6:03 TO 6:05

6:03 Q. Dr. Hegde, could you please state your
04 full name for the record, please.
05 A. Madhuri Ramchandra Hegde.

2. PAGE 8:20 TO 9:14

8:20 Q. Okay. I'm going to start after this --
21 with the -- get some background from you about your
22 education and your work experience. First, starting
23 with college, can you tell me what your educational

24 background is?

25 A. Okay. So I have done a bachelor's in
9:01 microbiology, a master's in microbiology, Ph.D. in
02 applied genetics, and I'm board certified in
03 clinical molecular genetics by the American Board of
04 Medical Genetics.

05 Q. Okay. And -- but go -- starting with the
06 first one, you -- where did you obtain that?

07 A. University of Bombay for bachelor's and
08 master's degree.

09 Q. Okay.

10 A. And my Ph.D. degree is from the University
11 of Auckland, New Zealand. And my postdoctorate
12 fellowship at Baylor College of Medicine in Houston,
13 and also my board certification was done at Baylor
14 College of Medicine.

3. PAGE 10:13 TO 11:12

10:13 Q. And when did you finish your schooling?

14 A. I finished my Ph.D. in 2000.

15 Q. And did you do a thesis?

16 A. Yes.

17 Q. What was your thesis on?

18 A. Molecular diagnostics.

19 Q. Okay. What was it specifically?

20 A. I was working on different disorders, with
21 inherited genetic disorders. One of them being
22 Duchenne muscular dystrophy and the other being
23 sophisticated methodologies for clinical
24 laboratories to use in clinical testing.

25 Q. And after you got your Ph.D. in 2000, did

11:01 you start working immediately after that?

02 A. No. I came to Baylor College of Medicine
03 to do a postdoctorate fellowship.

04 Q. Okay.

05 A. And then subsequently did the clinical
06 molecular genetics, American Board of Medical
07 Genetics program. And after that, I was employed at
08 Baylor.

09 Q. Okay. And how long did you take for your
10 postdoc?

11 A. It's till two -- from 2000 to 2005. I
12 became board certified in 2005.

4. PAGE 14:10 TO 15:14

14:10 Q. I may come back to that, but that's
11 basicall y -- I just wanted to kind of get an idea of
12 what you were kind of doing there.
13 So in 2006 you came to Emory.
14 A. Yes.
15 Q. Correct?
16 And when you came to Emory, what was your
17 position?
18 A. I was the director of the DNA diagnostic
19 laboratory and assistant professor in the department
20 of human genetics.
21 Q. And is that still your title?
22 A. No.
23 Q. Okay. So after you were the director of
24 DNA diagnostic lab, what was your next position at
25 Emory?
15:01 A. So I became the senior director of the DNA
02 diagnostic laboratory and Emory genetics laboratory,
03 and I was promoted to associate professor in 2009 in
04 the department of human genetics.
05 Q. And was this the same time you became the
06 senior director?
07 A. Yes.
08 Q. And is that the position you still hold
09 today?
10 A. No.
11 Q. What was your next position at Emory?
12 A. So I'm assoc- -- still associate professor
13 in the department of human genetics, but scientific
14 director of Emory genetics laboratory.

5. PAGE 23:03 TO 23:19

23:03 Q. And did you need to use any products on
04 the sequencing machine to do your clinical work?
05 A. By products --
06 Q. Let me -- let me go back. Did you --
07 let -- did you use any kits on the machine --
08 A. In 2006 --

09 Q. -- in 2006?
10 A. -- if I --
11 Q. To amplify the DNA, did you use any kits?
12 A. Yes.
13 Q. And what kits did you use?
14 A. We used -- okay. I don't remember what
15 enzyme they were using at that time --
16 Q. Um-hum. (Affirmative)
17 A. -- to do the PCR. But the ABI BigDye
18 sequencing mix for the regions of DNA we were going
19 after and, for the STRs, the Promega kit.

6. PAGE 27:14 TO 28:01

27:14 Q. All right. So you started using the
15 Identifiler kit sometime in 2006?
16 A. I would say yes.
17 Q. And what did you start using the
18 Identifiler kit for?
19 A. It was the same reason we used to use the
20 Promega kit for. One thing is to make sure -- in
21 the lab when we are doing clinical testing, we run a
22 lot of samples at the same time. So to make sure we
23 have not mixed up samples in the lab and because we
24 do prenatal testing, we want to make sure that we
25 are not having maternal contamination in the fetal
28:01 sample.

7. PAGE 37:25 TO 38:05

37:25 Q. And in 2007 you were still using the
38:01 Identifiler kit to test your prenatal samples?
02 A. Yes.
03 Q. And approximately how many samples did you
04 use the Identifiler kit on in 2007?
05 A. Probably the same number, ten to 15.

8. PAGE 40:12 TO 41:09

40:12 Q. And in 2008 you were doing the prenatal

13 testing. Correct?
14 A. Yes.
15 Q. And you were still using the Identifier
16 kit at this time?
17 A. Yes.
18 Q. And approximately how many kits were you
19 using per year of the Identifier kit?
20 A. Probably one or two.
21 Q. And before, you had been using ten to 15?
22 A. No. You're --
23 Q. Oh. Let me -- so you were using one to
24 two kits in 2008. Correct?
25 A. (Nods affirmatively)
41:01 Q. And how many tests were you doing?
02 A. It would be probably the same number.
03 Q. So it would be approximately ten to 15?
04 A. Ten to 15. And I really don't remember
05 how many we did, but that is the approximate number
06 of prenatals we had been doing.
07 Q. And so then in 2006 and 2007 you probably
08 would have used one to two kits as well?
09 A. Yes.

9. PAGE 42:03 TO 42:17

42:03 Q. And in 2009 approximately how many
04 prenatal tests were you doing?
05 A. I would say it was still between ten and
06 15. The number's not gone up over those years.
07 Q. So you would still be using the
08 Identifier kit at this time?
09 A. Yes.
10 Q. And you would still be purchasing
11 approximately one to two kits per year for prenatal
12 testing?
13 A. Yes.
14 Q. Were you purchasing any Identifier kits
15 for any other purposes in the lab?
16 A. Only those two purposes, that is, to check
17 if we had mixed up a sample and prenatal.

10. PAGE 43:02 TO 43:09

43:02 Q. Sorry. How many prenatal tests using the
03 Identifier kit were the people in your lab using --
04 doing in 2010?
05 A. I do not remember the exact number, but
06 probably 15 to 20.
07 Q. And how many Identifier kits would that
08 have been?
09 A. Maybe just three.

11. PAGE 44:12 TO 45:10

44:12 Q. And the lab is still doing the testing for
13 the prenatal cells. Correct?
14 A. That's correct.
15 Q. And approximately how many tests are they
16 doing on the prenatal cells using the Identifier
17 kit per year?
18 A. Between 15 and 20.
19 Q. And how many Identifier kits would that
20 be?
21 A. That would be somewhere between the same
22 range of three or -- I would go with three right
23 now. I don't remember exactly.
24 Q. And you're still using the Identifier
25 kit?
45:01 A. Yes.
02 Q. Has the kit changed since you've started
03 using it?
04 A. No.
05 Q. And today, December 14th, would you still
06 be doing this prenatal testing?
07 A. Yes.
08 Q. And are you still using the Identifier
09 kit today?
10 A. Yes.

Rossi, Robert (Vol. 01) - 11/22/2011

1. PAGE 6:03 TO 6:14

6:03 This is the videotape
04 deposition of Robert Rossi, taken by
05 the Plaintiff, in the matter of
06 Promega Corporation, et al. versus
07 Life Technologies Corporation, et
08 al., United States District Court,
09 Western District of Wisconsin, Case
10 No. 10-CV-281, held at the conference
11 rooms of the Hanover Marriott,
12 located in Whippany, New Jersey, on
13 Tuesday, November 22nd, 2011, at
14 9:20 a.m.

2. PAGE 7:13 TO 7:15

7:13 Q. Can you give me your full
14 name for the record.
15 A. Robert Rossi.

3. PAGE 9:06 TO 9:18

9:06 Let's start with college.
07 What was your degree?
08 A. I have a Bachelor's in
09 biology from what used to be North
10 Adams State College, which is now
11 Massachusetts College of Liberal
12 Arts.
13 Q. Okay. Way out in Western
14 Mass.
15 A. Yes.
16 Q. I've been out there.
17 And what year was that?
18 A. That was 1984.

4. PAGE 11:17 TO 12:11

11:17 Q. Okay. From when to when,
18 roughly?
19 A. Let's see. Let's back up.
20 '98 is when I started with Applied
21 Biosystems, so it must have been '92,
22 '93 time frame.
23 Q. Okay. Now, let's just take
24 that time frame you just mentioned,
12:01 '92, '93 to '98.
02 During that period or prior
03 to that, had you learned about
04 amplification of DNA?
05 A. No, I have not.
06 Q. Okay. So then you joined
07 Applied Biosystems in 1998?
08 A. Yes.
09 Q. And what's your position
10 there?
11 A. Sales representative.

5. PAGE 17:06 TO 18:06

17:06 Q. All right. And then that
07 brings us up to 2008, somewhere
08 around there?
09 A. Yes.
10 Q. And then what did you do?
11 A. And then it was more of a
12 hybrid role, I believe is what they
13 called it, more as a strategic
14 account manager.
15 Q. Okay.
16 A. So I covered primarily
17 pharmaceutical and biotech accounts
18 and it was still, more or less,
19 selling the realtime PCR technology.
20 Q. Okay. That was 2008?
21 A. Yes.
22 Q. Okay. Has that stayed the
23 same or have things changed?
24 A. Now, in this current role,
18:01 I am more as -- still as a sales
02 representative, but more on the human

03 identification forensics marketplace.
04 Q. Okay. And when
05 approximately did that happen?
06 A. That happened in 2010.

6. PAGE 175:07 TO 176:13

175:07 Q. Okay. Is there a group of
08 documents involving use of ABI STR
09 kits for nonforensic purposes that
10 you use externally with customers?
11 A. I guess even -- when you
12 say STR for nonforensic use, can you
13 define that a little bit more?
14 Q. Sure. So what I'm trying
15 to do is put aside the crime labs.
16 A. Okay.
17 Q. Okay. So putting aside the
18 crime labs, is there a packet of
19 materials that you maintain, so that
20 when you go to see a noncrime lab
21 for -- to sell ABI STR kits, you can
22 talk about these various nonforensic
23 applications?
24 A. I guess, when you say
176:01 nonforensic and STR, sometimes I get
02 a little -- a little confused.
03 Because I still would interpret that
04 as human identification as how the
05 kits would be utilized, so...
06 Q. Right. So let's just talk
07 about the crime labs versus noncrime
08 labs.
09 For noncrime labs, is there
10 any kind of packet of materials that
11 you use to explain to those noncrime
12 labs how to use ABI STR kits?
13 A. No.

7. PAGE 179:06 TO 181:19

179:06 Q. Okay. And what are they

07 doing when they do sample tracking,
08 if you know?

09 A. It's, more or less, a human
10 identification application where they
11 just want to be certain that, number
12 one, that there may not be cross-
13 contamination between samples that
14 are in, say, a plate.

15 And, also, as they're doing
16 their research, they want to be
17 certain that as they're conducting
18 research, down the line, that they
19 want to be able to go back and be
20 able to match a particular sample
21 with the particular source and be
22 certain that those match.

23 And that's where it would
24 be, more or less, a type of human
180:01 identification application that they
02 would use this in.

03 Q. Okay.

04 A. So that's what I would
05 refer to as -- in terms of sample
06 tracking.

07 Q. And do you have such
08 accounts that do sample tracking with
09 ABI STR kits?

10 A. I believe I do, yes.

11 Q. And who would those be?

12 A. That would be Rutgers
13 University.

14 Q. Okay.

15 A. And I believe Children's
16 Hospital was also one that would use
17 the kits for a similar type of
18 application.

19 Q. And that's in Boston, that
20 Children's?

21 A. Yes.

22 Q. Okay. Any others?

23 A. Those would be the ones
24 that I would recall. I mean,
181:01 granted, this -- it's a small segment
02 of my overall business, I would say
03 maybe less than 5 percent of my
04 overall business, and those two would

05 probably denote the much larger
06 pieces in that.

07 So those would really be
08 the only two that I would really have
09 exposure to.

10 Q. Okay.

11 A. Anything that's generally
12 smaller than that, I mean, that's
13 going to be more noise than
14 anything. Because, again, my primary
15 focus would be more in the crime
16 laboratories. That's where I'm
17 really responsible for -- for my
18 sales numbers and where growth would
19 generally be expected to come from.

DATED: February 13, 2012.

By: /s/ Michael R. McCarthy

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